

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

05-CR-231-A

ANN CAIN and
DAVID CAIN, SR.

Defendants.

SPEEDY TRIAL MEMORANDUM
AND ORDER

ON DECEMBER 5, 2005, defendant Ann Cain, by counsel, filed a motion seeking various forms of relief, including severance of her case from the co-defendants' case. On December 9, 2005, defendant David Cain, Sr. filed a similar pretrial motion.

ON JULY 7, 2006, the Court (the Hon. H. Kenneth Schroeder, Jr.) filed a separate Decisions and Orders ("D&O"), denying the defendants' pretrial motions in their entirety, including defendant David Cain, Sr.'s motion for severance.

DEFENDANT ANN CAIN did not appeal the Magistrate Judge's D&O denying her pretrial motions.

ON JULY 20, 2006, defendant David Cain, Sr. timely filed an appeal of the Magistrate Judge's D&O, and thereafter the Court entered a Scheduling Order that, among other things, scheduled oral argument for August 9, 2006.

ON AUGUST 4, 2006, defendant David Cain, Sr., by counsel, withdrew his appeal of the Magistrate Judge's D&O denying his motion to sever.

BASED ON defendant David Cain, Sr.'s withdrawal of his appeal, the speedy trial clock in this case begins to run as of Saturday, August 5, 2006 and, as of Monday, August 7, 2006, 68 days will remain on the speedy trial clock, and

BASED FURTHER ON DEFENDANT DAVID CAIN, SR.'S WITHDRAWAL of his appeal of the Magistrate Judge's D&O, this case is ready for trial, and on that basis, it is

ORDERED that counsel for the parties shall appear at 8:00 a.m., Monday, August 7, to set a trial date.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: August 8, 2006